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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2010-58

12 **CHRISTINE LOUISE CHATHAM**
13 **17831 La Costa Lane**
14 **Huntington Beach, CA 92647**

FIRST AMENDED ACCUSATION

15 **Registered Nurse License No. 715365**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
20 solely in her official capacity as the Interim Executive Officer of the Board of Registered
21 Nursing, Department of Consumer Affairs.

22 2. On or about November 8, 2007, the Board of Registered Nursing issued Registered
23 Nurse License Number 715365 to Christine Louise Chatham (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on April 30, 2011, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Section 2750 of the Code provides, in pertinent part, that every licensee or licensee holding licenses placed in an inactive status, may be disciplined as provided in this article.

6. Section 2764 of the Code states:

The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

STATUTORY PROVISIONS

7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an

independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

8. Section 493 of the Code states, in pertinent part:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

9. Section 2761 of the Code states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

10. Section 2762 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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11. Vehicle Code Section 23152 states, in pertinent part:

(a) It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.

(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

12. Vehicle Code Section 23221 states:

(a) No driver shall drink any alcoholic beverage while in a motor vehicle upon a highway.

(b) No passenger shall drink any alcoholic beverage while in a motor vehicle upon a highway.

13. Vehicle Code Section 23222 states, in pertinent part:

(a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

14. Penal Code section 273a states, in pertinent part:

...

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

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COST RECOVERY

15. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

REGULATORY PROVISIONS

16. California Code of Regulations, Title 16, section 1444, states, in pertinent part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

17. Regulation 1445, states in part pertinent:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

FIRST CAUSE FOR DISCIPLINE

**(December 9, 2008 Criminal Conviction –
Second DUI with .08% BAL or more and
Possession of Open Container on July 25, 2008)**

18. Respondent is subject to disciplinary action pursuant to Code sections 490, 493, 2761(a) and (f), and 2762(b) and (c), and California Code of Regulations, Title 16, section 1444 on the grounds that she was convicted of crimes substantially related to the her qualifications, functions, and duties as a registered nurse. The circumstances of the crimes are as follows:

19. On or about December 9, 2008 in the criminal proceeding entitled *People v. Christine Ramsey Chatham*, Superior Court Orange County, West Justice Center, Case No. 08WM09068,

Respondent pled guilty to driving a vehicle while her blood alcohol concentration was 0.08 percent or more, in violation of Vehicle Code section 23152(b), a misdemeanor, and unlawful possession on her person while driving a motor vehicle, of a open container of an alcoholic beverage, in violation of Vehicle Code section 23222(a), an infraction.

20. On or about July 25, 2008 at approximately 12:08 a.m., Huntington Beach Police Officer Burton stopped Respondent for driving without lights at night. Respondent showed symptoms of impairment and had a strong odor of an alcoholic beverage on her breath. Respondent indicated to the police officers that she did not realize that her headlights were not on. Respondent was given field balance evaluations. Respondent had her ten year old daughter in the car. Officer Burton found an open beer in Respondent's car that was cold and half full.

Respondent was arrested for driving a vehicle while under the influence of an alcoholic beverage, in violation of Vehicle Code section 23152(a); driving a vehicle while her blood alcohol concentration was 0.08 percent or more, in violation of Vehicle Code section 23152(b); child abuse for driving while under the influence of alcohol and Zoloft, anti depression medication with her ten year old daughter in the car, in violation of Penal Code section 273a(b); and unlawful possession on her person of a open container of an alcoholic beverage while driving a motor vehicle, in violation of Vehicle Code section 23222(a).

21. On or about December 9, 2008, Respondent was sentenced to three years probation, pay fines and restitution, and ordered to complete a six month first offender alcohol program, and a ten week parenting counseling class.

SECOND CAUSE FOR DISCIPLINE

(May 4, 2008 First DUI)

22. Respondent is subject to disciplinary action pursuant to Code sections 2761(a) and 2762(b) on the grounds that she was arrested for driving a vehicle while under the influence of alcohol in violation of Vehicle Code section 23152(a).

23. On or about May 4, 2008, at 3:52 p.m., Respondent was stopped by a California Highway Patrol Officer. Respondent was arrested and charged with driving a vehicle while under the influence of alcohol in violation of Vehicle Code section 23152(a), driving with a blood

1 alcohol concentration was 0.08 percent or more, in violation of Vehicle Code section 23152(b),
2 and unlawful possession on her person of a open container of an alcoholic beverage while driving
3 a motor vehicle, in violation of Vehicle Code section 23221.

4 24. This matter is currently pending in the criminal proceeding entitled *People v.*
5 *Christine Ramsey Chatham*, San Bernardino County Superior Court, Case No. TBA800621.

6 Respondent was charged with driving a vehicle while under the influence of alcohol in violation
7 of Vehicle Code section 23152(a), driving under the influence with a blood alcohol concentration
8 was 0.08 percent or higher, in violation of Vehicle Code section 23152(b), and drinking an
9 alcoholic beverage in a vehicle upon a highway, in violation of Vehicle Code section 23221(a).

10 This matter is currently set for a Readiness Conference on September 22, 2010 and a Trial on
11 September 27, 2010.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(February 7, 2010 Third DUI)**

14 25. Respondent is subject to disciplinary action pursuant to Code sections 2761(a) and
15 2762(b) on the grounds that she was arrested for driving a vehicle while under the influence of
16 alcohol in violation of Vehicle Code section 23152(a).

17 26. On or about February 7, 2010, at 10:27 p.m., Respondent was stopped by a
18 Huntington Beach Police Officer for making a sudden, unsafe lane change. The officer observed
19 that Respondent displayed objective symptoms of alcohol intoxication. Respondent admitted to
20 having consumed alcohol. The officer conducted a DUI investigation. Respondent submitted to
21 two breath tests which showed that her blood alcohol was 0.17% and 0.16%. Respondent was
22 arrested and charged with driving a vehicle while under the influence of alcohol in violation of
23 Vehicle Code section 23152(a).

24 27. This matter is currently pending in the criminal proceeding entitled *People v.*
25 *Christine Ramsey Chatham*, Orange County Superior Court.

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OTHER MATTERS

28. On February 7, 2010, Officer Downing asked Respondent if she had been arrested or convicted of DUI in the past. Respondent said she had not. Officer Downing contacted the Huntington Beach Police Department records reporter who informed him that Respondent had prior arrests for DUI on May 4, 2008, and July 25, 2008, and was convicted of DUI on December 9, 2008 and was on criminal probation until December 8, 2011.

29. On February 8, 2010, Officer Downing went to Respondent's residence and confiscated her expired Nevada driver's license. Officer Downing did a records check which revealed that Respondent's California driver's license was suspended with service needed.

PRAYER

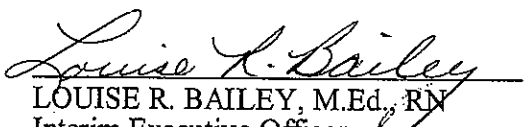
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 715365, issued to Christine Louise Chatham, RN.

2. Ordering Christine Louise Chatham, RN to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: _____


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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